

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**UNITED STATES OF AMERICA**

§

§

**V.**

§

**CRIMINAL NO. 4:05-CR-252-002**

§

**MICHAEL DALE ARRINGTON**

§

**REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

On July 15, 2008, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Michael Dale Arrington. The government was represented by Randy Blake, and Defendant was represented by Jens Bakker.

Defendant originally pleaded guilty to the offense of conspiracy to possess stolen mail, a Class D felony. The guideline imprisonment range, based on a total offense level of 10 and a criminal history of category I, was 6 to 12 months. On May 25, 2006, Defendant was sentenced to 12 months imprisonment to be followed by 3 years supervised release subject to the standard conditions of release, plus special conditions to include \$100 special assessment, \$3,217.91 restitution, drug aftercare, mental health aftercare, no new credit, and financial disclosure. On November 1, 2006, Defendant completed his period of imprisonment and began service of the supervision term. On February 22, 2007, the original term of supervised release was revoked and Defendant was sentenced to 11 months of imprisonment followed by a 26 month term of supervised release subject to the standard conditions of release, plus special conditions to include 120 days in a residential reentry center, drug aftercare, no new credit, financial disclosure, and mental health aftercare. On January 31, 2008, Defendant completed his period of imprisonment and began service of the supervision term.

In its petition, the government alleges that Defendant violated his conditions of supervised release by possessing methamphetamine, by submitting a urine specimen on June 23, 2008 that tested positive for methamphetamine, and by failing to successfully complete 120 days in a residential reentry center and participate in drug treatment counseling sessions. If the Court finds by a preponderance of the evidence that Defendant committed these violations, a statutory sentence of no more than two years of imprisonment may be imposed, 18 U.S.C. § 3583(e)(3). Section 7B1.1(b) of the Sentencing Guidelines indicates that when there is more than one violation of the conditions of supervision, or the violation includes conduct that constitutes more than one offense, the grade of the violation is determined by the violation having the most serious grade. Pursuant to Section 7B1.1(a) of the Sentencing Guidelines, violating a condition of supervision by possessing amphetamine/methamphetamine would be a Grade B violation, for which the Court shall revoke probation or supervised release. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of I, the Guideline imprisonment range for a Grade B violation is 4 to 10 months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to the violations. In exchange, the government agreed to recommend a sentence of ten months with no term of supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant Michael Dale Arrington be committed to the custody of the Bureau of Prisons to be imprisoned for a term of 10 months (to include the remaining unserved three days of community confinement), and with no supervised release to follow.

The parties have waived their right to object to the findings of the Magistrate Judge in this

matter so the Court will present this Report and Recommendation to District Judge Richard Schell  
for adoption immediately upon issuance.

So ORDERED and SIGNED this <sup>18<sup>th</sup> F.T. c/permission</sup> ~~25~~ day of July, 2008.

  
JOHN D. LOVE  
UNITED STATES MAGISTRATE JUDGE